

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**Application No. 16350 of Francis Ayodeji**, pursuant to 11 DCMR 3107.2, for a variance from the floor area ratio limitation (Subsection 771.2), a variance from the rear yard requirement (Subsection 774.1), and a variance from the off-street parking requirements (Subsection 2101.1) for an addition, alteration, and conversion of a structure to establish a real estate office in a C-2-A District at premises 1200 Kennedy Street, N.W. (Square 2932, Lot 70).

**HEARING DATE: June 17, 1998**

**DECISION DATE: June 17, 1998 (Bench Decision)**

**ORDER**

**SUMMARY OF THE EVIDENCE:**

The property which is the subject of this application is located at 1200 Kennedy Street, N.W. The site is developed with a three-story brick structure that is used for the offices of a commercial real estate business. The basement level is used as a convenience store.

The applicant proposes to maintain the existing use, but to increase the square footage of the structure by building out to the property line and occupying 100 % of the lot. This will allow more space for the real estate business operations. There would be a conference room and more space for visitors.

The property is located in the C-2-A District. The allowable floor area ratio is 1.5 or 3,582.30 square feet. The applicant proposes to provide 7,164.6 square feet, thereby creating the need for a variance from the maximum allowable floor area ratio in the amount of 3,582.30 square feet (or 50%). In the C-2-A District, a minimum rear yard of 15 feet is required. The applicant will provide no rear yard; therefore a 15-foot rear yard variance is needed. Finally, three parking spaces are required for the property. The applicant will not be providing parking on site; therefore, he will need a parking variance for the three spaces.

**Issues and Arguments:**

**1. Whether there exists a unique or exceptional situation or condition related to the property which creates a practical difficulty upon the owner in complying with the Zoning Regulations?**

**The Floor Area Ratio Variance and the Rear Yard Variance**

On the issue of uniqueness, the applicant testified that his property is irregularly shaped, corner lot. The side of the lot is at an angle. The lot is shallow and narrow at the front of the property. He testified that he would like to build his property out to eliminate the space at the rear where

he has problems with people loitering. He would also like to serve the community better and to enhance the economic aspects of the Georgia Avenue Corridor. The applicant maintains that the property is currently too narrow for the volume of people that he is servicing.

The Parking Variance

On the issue of off-street parking, the applicant did not indicate specifically why parking could not be located on his lot. However, he testified that there is an open area above the one-story structure behind his building and a 15-foot rear yard at the site. He testified that this open area is not useful unless he can build on it. He also noted that the rear yard is fenced.

**2. Whether granting the variance relief would be of substantial detriment to the public good?**

The Floor Area Ratio Variance

The applicant maintains that constructing the addition will not create any adverse impacts on the community. He testified that the use would remain the same and the current number of 15 employees would be reduced by eliminating some of the part-time workers.

Ms. Shirley Taylor, who resides adjacent to the site at 1206 Kennedy Street, was granted party status in the application. She testified that she does not have a problem with the additional construction that the applicant wishes to undertake. However, she noted that the applicant does not take good care of his property.

Responding to the comments of the opposing neighbor, the applicant stated that he does not plan to build on the Kennedy Street side of the property, but rather only on the Georgia Avenue side. However, he does plan to improve the appearance on the Kennedy Street side of the site.

The Parking Variance

With regard to parking, the applicant stated that there is plenty of parking on the street, and he noted that his clients never have problems finding parking spaces. He stated that there is parking on both sides of Georgia Avenue and on Kennedy Street. He testified that if the application were granted, while there would be more activity and an increased demand for parking, the space for parking would be adequate because on Kennedy Street and on Georgia Avenue, there is space to park for two hours without penalty. Currently there are many open spaces and open meters at which people can park on both sides of these streets. The applicant also confirmed that there is a commercial parking lot about a half block away between Jefferson and Kennedy Streets.

The opposing neighbor testified that parking is a problem in the area and that she often has trouble finding a parking space in front of her house when she arrives home after work. She indicated that her neighbor across the street has similar problems.

The applicant challenged the opposing witnesses' statement, indicating that it has not been shown that the cars parked on the street are associated with the his business.

The Rear Yard Variance

The applicant maintains that if he is allowed to build into the rear yard, it will eliminate loitering in that area. He testified that nothing else could be done with this portion of his property.

**3. Whether granting the variance relief would impair the intent, purpose or integrity of the zone plan?**

No testimony was presented addressing whether granting the application would impair the intent purpose and integrity of the zone plan.

Advisory Neighborhood Commission 4C did not submit a written statement related to the application.

**FINDINGS OF FACT:**

Based on the evidence of record, the Board finds as follows:

1. The property is not unique. The fact that it is a corner lot is not such a unique quality that the property cannot be used in compliance with the Zoning Regulations.
2. The property is currently being used in compliance with the floor area ratio and rear yard requirements.

**CONCLUSIONS OF LAW AND OPINION:**

The Board concludes that the applicant is seeking area variances to allow the construction of an extension to an existing structure in a C-2-A District. The granting of such variances requires a showing of a unique or exceptional condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations. The Board must also find that granting the application would not be of substantial detriment to the public good, nor would it impair the intent, purpose or integrity of the Zoning Regulations and Map. The Board concludes that the applicant has failed to meet this burden of proof.

The Board concludes that the applicant has failed to demonstrate that there is some unique aspect about the property that would create a practical difficulty for him in using it as allowed with a floor area ratio of 1.5. The Board recognizes that this test would be difficult for the applicant to meet since the property is currently being used in compliance with the floor area ratio and rear yard provisions. However, without such a showing, the Board is without authority to grant the variances requested.

With regard to the parking variance, the applicant has not demonstrated the exceptional condition related to his property that would create a practical difficulty for him to provide the required off-street parking spaces. Therefore, the Board is unable to grant this relief.

Having determined that the applicant has not met the first test relating to uniqueness, the Board finds it unnecessary to address the remaining standards for variance relief. In light of the foregoing analysis, the Board hereby **ORDERS** that the application is **DENIED**.

**VOTE:**        **4 – 0** (Betty King, Angel F. Clarens, Maurice Foushee and Sheila Cross  
Reid to deny).

**BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

ATTESTED BY:   
SHERI M. PRUITT-WILLIAMS  
Interim Director

**Final Date of Order:** FEB - 9 1999

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



**BZA APPLICATION NO. 16350**

As Interim Director of the Office of Zoning, I hereby certify and attest that on FEB - 9 1999 a copy of the order entered on that date in this matter before the Board of Zoning Adjustment was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Mr. Francis Ayodeji  
1200 Kennedy Street, N.W.  
Washington, D.C. 20011

Attested By:

  
**SHERI M. PRUITT-WILLIAMS**  
Interim Director

Date: FEB - 9 1999

Att./twr